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REPORT OF THE SECRETARY-GENERAL ON THE SITUATION CONCERNING WESTERN SAHARA

I. INTRODUCTION

1. In its resolution 1033 (1995) of 19 December 1995, the Security Council welcomed my decision to intensify my consultations with the two parties to the settlement plan for Western Sahara in an effort to obtain their agreement to a plan to resolve differences hindering the timely completion of the identification process.

2. With this objective in mind, a mission headed by Under-Secretary-General Chinmaya R. Gharekhan, acting as my Special Envoy, visited Rabat (2-4 January), Tindouf (4-5 January), Nouakchott (5-6 January) and Algiers (7-9 January). Besides staff members of the Office of the Secretary-General and the Department of Political Affairs, Mr. Erik Jensen, Acting Special Representative of the Secretary-General for Western Sahara, participated in the mission.

3. The present report sets out the findings and conclusions of my Special Envoy's mission as requested by the Security Council in paragraph 4 of its resolution 1033 (1995). It also addresses, under separate headings, the progress of the work of the Identification Commission in recent months, the activities of the military and civilian police components and other aspects relevant to the fulfilment of the settlement plan.

II. MY SPECIAL ENVOY'S MISSION

4. In Rabat, my Special Envoy was received, in separate meetings, by the Prime Minister and Minister for Foreign Affairs and Cooperation, Mr. Abdellatif Filali, and the Minister of the Interior and Information, Mr. Driss Basri. In Tindouf, he met with the Secretary-General of the Frente Popular para la Liberación de Saguia el-Hamra y Rio de Oro (Frente POLISARIO), Mr. Mohamed Abdelaziz, and had intensive discussions with a delegation headed by Mr. Mustafa Bachir Sayed, Frente POLISARIO Coordinator with the United Nations Mission for the Referendum in Western Sahara (MINURSO). He also made a visit to the Smara refugee camp, where he met with sheikhs and notables. In Nouakchott,

the mission had meetings with President Maaouya Ould Sid'Ahmed Taya, Prime Minister Sheikh El Avia Ould Mohamed Khouna and the Minister for Foreign Affairs and Cooperation, Mr. Mohamed Salem Ould Lekhal. Finally, in Algiers, Mr. Gharekhan had meetings with President Liamine Zeroual, Prime Minister Ahmed Ouyahya and the Minister for Foreign Affairs, Mr. Ahmed Attaf.

5. Both in Rabat and Tindouf, my Special Envoy stressed the need for both parties to take urgent steps to overcome their differences relating to the implementation of basic aspects of the settlement plan in order to provide a basis for the Security Council to support the continuation of MINURSO. He advised that, in case there was no progress at all towards a meaningful resumption of the work of the Identification Commission, the Secretary-General would be obliged to inform the Council accordingly in his forthcoming report. My Special Envoy brought to their attention the Council's request to me, contained in its resolution 1033 (1995), to provide it with options for its consideration, including a programme for the orderly withdrawal of MINURSO in the event the intensified consultations undertaken by the special mission failed to lead to agreement.

6. Both sides confirmed their commitment and continuing desire to hold a free and fair referendum on the future status of Western Sahara in conformity with the settlement plan. They assured my Special Envoy of their readiness to cooperate fully with the United Nations in order to overcome the obstacles standing in the way of the implementation of the plan. At the same time, each of the parties insisted that there was no room left for additional concessions on its part. Consequently, each party stressed that progress was contingent on the readiness of the other party to adjust its position as required. Whereas both Morocco and the Frente POLISARIO felt that the United Nations ought to impose adjustments on the position of the opposing side, it was clear that they would reject any attempt by the United Nations to impose changes on their own position.

7. It emerged from the meetings in Rabat that Morocco adhered to its position as regards the identification of applicants remaining to be processed by the Identification Commission. Morocco underlined that it was the Commission's duty to process each and every application submitted before the expiry of the deadline established for that purpose, irrespective of the present place of residence of the applicant. Furthermore, the same procedures must be applied to all applications. Morocco also insisted that the Identification Commission must give equal weight to all forms of evidence offered by applicants in support of their claims to eligibility, be it documentary proofs or oral testimony.

8. In a meeting with Mr. Bachir in Tindouf, my Special Envoy urged the Frente POLISARIO to cooperate in the identification of all remaining applicants in accordance with the settlement plan and in conformity with the arrangements agreed upon with the parties for the purpose of their participation in the process. Specifically, each party was expected, inter alia, to make available a sheikh or an alternate to assist the Identification Commission. My Special Envoy noted that the plan made it incumbent on the Commission to process all applications submitted on time.

9. Following this meeting, Mr. Bachir agreed that the Frente POLISARIO would participate in the identification of all applicants members of subfractions that were represented in the 1974 census, being those for which a list of sheikhs or alternates has already been drawn up. However, the Frente POLISARIO would not participate in the processing of applicants from H41, H61 and J51/52 tribal groups, which were not represented by subfraction in the 1974 census, since it held the view that, under the established criteria, applications from persons other than those belonging to subfractions specifically represented in the census were not admissible. Moreover, the Frente POLISARIO was not able to present sheikhs or alternates for such groups. Furthermore, the Frente POLISARIO would strongly oppose any attempt to identify such applicants with the participation of a sheikh from one side only. In such an event, it would be compelled to withdraw from the entire process, Mr. Bachir indicated to my Special Envoy.

10. While noting that the Frente POLISARIO would be ready to resume the identification operation on that basis, Mr. Bachir called for urgent steps to be taken to restore confidence in the referendum process. In particular, he mentioned the need for more transparency in the work of the Identification Commission. While agreeing to the need for transparency, my Special Envoy rejected any notion that the Commission had failed to observe complete impartiality in the performance of its tasks.

11. As regards the possibility of talks, whether direct or indirect, as a mechanism for resolving differences, Morocco, while not totally opposed, was of the opinion, bearing in mind past experience of such encounters, that a dialogue between the two parties would not serve much purpose at this stage and might even complicate the situation. For its part, the Frente POLISARIO strongly favoured talks as a means of re-establishing confidence between the parties. In this connection, the Secretary-General of the Frente POLISARIO said that he would be ready to enter into talks in any format agreeable to both parties, whether direct or indirect, and under the auspices of the United Nations or with the help of a "contact group", which could consist of regional and non-regional States. My Special Envoy confirmed to both parties my continued readiness to offer auspices for a dialogue and to assist in any other way possible in bringing about constructive contacts between them.

12. During meetings in Nouakchott and Algiers, leaders of the two observer countries confirmed to my Special Envoy their continuing strong interest in a speedy settlement of the Western Saharan conflict as a fundamental prerequisite for the stability and development of the region.

13. From the Mauritanian point of view, MINURSO plays an essential role both militarily and politically in the search for a solution to the conflict. Mauritania is deeply concerned that the retrenchment or withdrawal of the Mission would have dangerous consequences. It was explained that Mauritania's position is one of neutrality and that it is encouraging both parties to make every effort, including through direct contacts, to move towards a solution. The Government stands ready to cooperate fully with MINURSO in the context of the settlement plan. In this connection, I am grateful to the President of Mauritania for acceding to my Special Envoy's request for the establishment of a second identification centre in Zouerate in the north-eastern part of the

country, in addition to the centre due to be established at Attar. This should help to expedite the identification of applicants resident in Mauritania.

14. The Algerian authorities also expressed strong concern about the potentially devastating effects on the stability of the whole region should MINURSO be withdrawn. They also stressed the importance of not losing sight of the nature of the conflict as a decolonization problem and the need for the United Nations to uphold the principles involved. While insisting that adherence to the settlement plan was imperative, Algeria continued to take the view that direct talks between the parties was an essential corollary to the plan also to help to instil the necessary confidence in the process. In particular, it was felt that dialogue between the parties ought to address sensitive issues pertaining to the post-referendum period. Algeria reaffirmed its readiness to assist in any way possible with a view to advancing the implementation of the plan.

15. During an overnight stop in Laayoune (6/7 January) my Special Envoy had the opportunity to meet with the Chairman of the Identification Commission and some of its members. This encounter reinforced his impression that, on the whole, the Commission is performing its difficult task with the utmost regard for fairness and impartiality. The task of the Commission is not rendered any easier by the parties' critical scrutiny of its work and allegations impugning the integrity of individual members.

16. My Special Envoy also discussed with my Acting Special Representative and the Chairman of the Identification Commission possible ways of increasing the transparency of the identification process. It was concluded that this could contribute to reducing mistrust and suspicion and serve to instil more confidence in the process. To that end, it was agreed that the Commission would make arrangements to share with both parties, in a suitable format, list of applicants identified so far as eligible to vote as well as a list of applicants still to be identified.

17. Following the conclusion of my Special Envoy's visit to the region, my Acting Special Representative briefed the Moroccan side of the discussions in Tindouf.

III. WORK OF THE IDENTIFICATION COMMISSION

18. My Special Envoy's mission took place against the background of the near standstill of the identification process resulting from the Frente POLISARIO's decision not to participate in the identification of certain groups as communicated to the President of the Security Council at the end of August 1995. As a consequence, only 7,935 persons have been identified since 1 September 1995, bringing the total number of persons identified to 60,257 out of 76,992 convoked.

19. Identification took place during this period at only two centres: Laayoune in Western Sahara and El-Aaiun camp near Tindouf. Two centres in the Territory (Boujdour and Dakhla) and one in the Tindouf area (Smara camp) are not operating because subfractions belonging to the tribal groups Tribus del Norte (H),

Chorfa (I) and Costeras y del Sur (J), considered contentious by Frente POLISARIO as of August, are the only ones for which a significant number of persons remains to be identified. Morocco, therefore, refused to participate in the identification of applicants in two centres in the Tindouf area (Awsard camp and Dajla camp) and the Frente POLISARIO at one centre in Western Sahara (Smara). Until 8 November 1995, identification took place in Laayoune centre every working day except for the three days when the representatives of the Frente POLISARIO refused to submit to the new security procedures installed by the Moroccan authorities at Laayoune airport. Identification in Laayoune centre ceased as of 9 November because the scheduled H11 subfraction (Ait Hamad, Ait Iasin) was contested by Frente POLISARIO. However, Morocco did not reciprocate and, until 22 December, identification continued in El-Aaiun camp on most working days, with a few interruptions due mostly to difficulties in having the Frente POLISARIO sheikhs required promptly available.

20. With some 174,000 applicants remaining to be convoked for identification at the time of preparation of the present report, it is clear that even if the identification were to be immediately resumed and accelerated, the earlier forecast calling for a referendum to be held in May 1996 is no longer realistic.

IV. MILITARY COMPONENT

21. As of 10 January 1996, the military component of MINURSO, headed by the Force Commander, Brigadier-General André Van Baelen (Belgium), totalled 288, comprising 240 military observers and 48 military support personnel (see annex I). Pending the fulfilment of the conditions necessary for the commencement of the transitional period, the military mandate of MINURSO remains restricted to monitoring and verifying the cease-fire, which came into effect on 6 September 1991.

22. During the reporting period, the cease-fire was violated on one occasion. The violation was an attempt by the Frente POLISARIO to restrict the movement of military observers. A regional Frente POLISARIO Commander informed MINURSO that there could be no overflight of their units or the conduct of aerial reconnaissance. The situation was resolved after discussions with those responsible. The Frente POLISARIO reported four Moroccan overflights, which MINURSO was unable to confirm. As in the past, these alleged overflights took place in the vicinity of international air corridors. An incident was confirmed by MINURSO of a helicopter flying near Teamsite Mijek but it was impossible to establish the aircraft's origin.

V. CIVIL POLICE COMPONENT

23. Brigadier-General Walter Fallmann (Austria) assumed his duties as Civil Police Commissioner on 4 January 1996. The present strength of MINURSO Civil Police (CIVPOL) is 91 (see annex II). If the number of identification centres increases then, CIVPOL will require reinforcement accordingly. The tasks of CIVPOL remain, until further notice, providing technical assistance to the Identification Commission as well as maintaining a 24-hour presence at all identification centres.

VI. OTHER ASPECTS RELEVANT TO THE FULFILMENT OF THE SETTLEMENT PLAN

1. Independent jurist and release of political prisoners and detainees

24. Professor Emmanuel Roucounas, the Independent Jurist, met with the Moroccan authorities in Rabat on 14 September 1995, at which time he submitted a list of names. My Acting Special Representative has since addressed two notes verbales, dated 22 October and 13 November 1995, to the Government of Morocco regarding a possible further visit by the Independent Jurist.

2. Exchange of Prisoners-of-War

25. On 19 November 1995, 186 Moroccan prisoners-of-war were repatriated with the assistance of the International Committee of the Red Cross (ICRC) and the Governments of the United States of America and Argentina.

3. Code of conduct

26. The revised code of conduct was addressed to the two parties on 17 August 1995. In a letter dated 22 August, the Frente POLISARIO's Coordinator with MINURSO, Mr. Bachir, informed my Acting Special Representative that the Frente POLISARIO considered the new version unacceptable. The Government of Morocco also indicated its dissatisfaction. Following notes verbales sent to both parties by my Acting Special Representative on 29 September and 4 December 1995, respectively, asking for detailed comments, Mr. Bachir submitted comprehensive observations and a revised text of the code of conduct by letter dated 5 December 1995. The considered comments of the Government of Morocco were received in Laayoune on 12 January 1996.

VII. OBSERVATIONS

27. As indicated in paragraph 9 above, my Special Envoy's mission has resulted in agreement of the Frente POLISARIO to participate in the identification of a significant number of applicants about whom it had earlier expressed reservations. Specifically, the Frente POLISARIO has agreed to proceed with the identification of all applicants, irrespective of their place of residence, who are members of subfractions included in the 1974 census i.e. subfractions for which lists of sheikhs or alternates from both parties have already been established. This should permit a meaningful resumption of the identification process. However, for reasons mentioned in paragraph 9 of this report, the Frente POLISARIO continued to decline to cooperate in the identification of another large group of applicants i.e. those appearing under the codes H41, H61 and J51/52 in the 1974 census, except for those few who are eligible by virtue of their inclusion in the 1974 census.

28. Morocco maintains that all applicants must be processed without discrimination as to the format or treatment by the Identification Commission.

Indeed, the Commission is required to process all the remaining applications on this basis and indeed intends to do so. In his discussions with Frente POLISARIO, my Special Envoy emphasized that the Identification Commission was obliged to process all applications submitted before the expiry of the relevant deadline. He also insisted that, under the settlement plan, the parties were duty-bound to cooperate in the identification of all applicants.

29. My Acting Special Representative has advised me that, if both parties were to cooperate fully with the Identification Commission, it ought to be possible for each Identification Centre to process some 750 persons per week. Consequently, if the Identification Commission were to be expanded to a total of 11 identification centres, as called for in MINURSO's planning, the capacity of the Commission would be in excess of 8,000 applicants per week. It would then be possible, at least in theory, to complete the identification of all remaining applicants, numbering approximately 174,000, in 22 weeks or so; or, - perhaps more realistically in the light of past experience - if for unavoidable reasons, the Commission were to operate only at half capacity, in about 44 weeks. Depending on the actual numbers involved, a further period of several weeks would have to be allowed for the consideration of appeals against the decisions of the Identification Commission. It follows, therefore, that a period ranging from six months to one year would be required, in this scenario, to complete the identification process.

30. The assumptions made in the previous paragraph are predicated on the willingness of the parties scrupulously to respect the detailed programme of work that would be established by the Identification Commission. In each instance the sheikhs required, the party representatives and the Organization of African Unity (OAU) observers will have to be present at the hours stated and remain until the identification is completed for all those to be identified on a particular day. The necessary travel will have to take place on Fridays and Sundays if the programme is to be fully implemented and it will be for the parties to ensure that their sheikhs and representatives are available where and when scheduled, notwithstanding the inconvenience that this may cause, especially during the month of Ramadan.

31. On the issue of establishing a dialogue between the parties, I have noted the strong support expressed by the two observer countries during my Special Envoy's visit to their capitals. While I remain at the full disposal of the parties, should they agree to hold talks in whatever format, in order to facilitate a settlement of their conflict, the Security Council as a whole or individual Member States may also wish to consider possible ways and means of assisting the parties in this regard. Such talks could help in creating confidence between the parties and provide a momentum to the peace process. The contacts between the parties could be arranged on a confidential basis.

32. I should also like to refer to the recognition by the Council of the fact, reiterated in its resolution 1033 (1995), that for progress to be achieved, the two parties must have a vision of the post-referendum period. This aspect needs to be pursued. I should like to encourage all concerned to make the necessary efforts to help the parties to achieve such vision.

33. I am conscious that there are other aspects of the settlement plan that need to be addressed with vigour and urgency and which, as the Council is aware, will not be at all easy to resolve, such as the code of conduct, confinement of troops, exchange of prisoners-of-war, and so on. Now that the newly arrived Chairman of the Identification Commission has had adequate time to familiarize himself with the complexity of his functions, I have instructed my Acting Special Representative to redouble his efforts to resolve these issues.

34. In the light of the results of my Special Envoy's mission and other relevant circumstances described in the present report, the Council may wish to consider, as one option, extending the mandate of MINURSO for four months ending on 31 May 1996. This should give enough time for the resumption of the identification process and an opportunity to test the political will of the parties in deed rather than merely in words. For my part, I would closely monitor the situation. If at any time before the expiry of the extended mandate I were to find that the situation was showing no or very little improvement, I would immediately bring the matter to the attention of the Council.

35. I should like to emphasize, however, that the situation of stalemate that arose in December 1995 will in all probability confront us in a few months time if and when the Identification Commission succeeds in completing the processing of the applicants in accordance with the agreement reached during my Special Envoy's visit. At that time, the problem of finding a formula acceptable to both parties for dealing with the remaining caseload will arise once again, presenting the same kind of challenge as in December last year. I shall continue my endeavour to find common ground between the two parties, but it is equally important for all those Member States in a position to do so to exert efforts in the same direction.

36. As a possible second option, the Security Council might conclude that it could not justify a further extension without imposing conditions in terms of solutions to outstanding problems by specified dates, and that, consequently, plans should be prepared for a phased withdrawal of MINURSO. My Special Envoy has unambiguously apprised the parties and observer States of the sense of frustration felt by the Council at the periodic and predictable breakdowns in the process, and at the absence of even a reasonably clear indication of when the process might come to an end. He has further conveyed to them the readiness of the Council, however reluctantly, to contemplate the withdrawal of the Mission. The responsibility would rest fully with the parties.

37. However, I share the concern expressed to my Special Envoy by the parties, and even more so by the observer States, at the possibility of the Security Council considering phasing down, and eventually even closing down, MINURSO. I fear that such action could have destabilizing consequences for the region.

Annex I

Composition of MINURSO military component

A. Military observers

Argentina	2
Austria	4
Bangladesh	7
Belgium	1
China	20
Egypt	12
El Salvador	2
France	27
Ghana	6
Greece	1
Guinea	3
Honduras	14
Ireland	9
Italy	6
Kenya	10
Malaysia	15
Nigeria	4
Pakistan	5
Poland	3
Republic of Korea	2
Russian Federation	30
Tunisia	9
Uruguay	15
United States of America	30
Venezuela	3
Total	240

B. Military support personnel

(i)	Medical Unit: Republic of Korea	40
(ii)	Clerical: Ghana	8
	Total	48
	Grand total	288

Annex II

Composition of MINURSO Civil Police component

Country	Number
Austria	11
Egypt	11
Germany	4
Ghana	8
Hungary	13
Ireland	14
Nigeria	10
Norway	2
Togo	8
Uruguay	10
Total	91
Recommended strength	92